

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Talbot Curtin

v.

Case No. 11-cv-564-PB

United States of America

ORDER

As the government's brief correctly explains, recent first circuit precedent makes clear that the predicate offence on which the defendant's career offender determination was based - assault and battery on a police officer - is a qualifying offense. See *United States v. Dancy*, 640 f3d 455 (1st cir. 2011). Thus defendant's motion cannot succeed even if it is not time barred. I decline to issue a certificate of appealability because, for the above stated reasons, the petitioner has not made a substantial showing of the denial of a constitutional right.

SO ORDERED.

January 27, 2012

/s/ Paul Barbadoro
Paul Barbadoro
United States District Judge

cc: Talbot Curtin, Pro Se
Seth Aframe, Esq.